

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 260 of 1994

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL and  
MR.JUSTICE R.R.JAIN

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COMMISSIONER OF INCOME TAX

Versus

GUJARAT COKE MFG.CO.P.LTD.

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Appearance:

MR MANISH R BHATT for Petitioner

NOTICE NOT RECD BACK for Respondent No. 1

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CORAM : MR.JUSTICE B.C.PATEL and  
MR.JUSTICE R.R.JAIN

Date of decision: 11/07/96

#### ORAL JUDGEMENT

At the instance of the Revenue, the following question is referred to this Court under Section 256(1) of the Income Tax Act, 1961 : -

"Whether, the Appellate Tribunal is right in law and on facts in holding that the amount of cash subsidy should not be deducted while determining the actual cost for the purpose of allowing of depreciation and investment allowance ?"

2. The Tribunal decided the controversy following the decision of this Court in the case of CIT Vs. Grace Paper Industries Pvt. Ltd. reported in (1990) 183 ITR 591. This case is also covered by the decision of the Apex Court in the case of CIT Vs. P.J. Chemicals, reported in 210 ITR 830. Hence, the question is required to be answered against the Revenue and in favour of the Assessee. Accordingly, we answer the question in favour of the Assessee and against the Revenue.

3. It is shown in the board that the notice issued to the respondent assessee is not received back. However, as we are passing the order in favour of the assessee, we are disposing of this matter.

4. This reference is disposed of accordingly with no order as to costs.

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